

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday February 22, 2019
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Mark Liotta, Commissioner Jordan Russell and Commissioner Megan Tilly.

Staff present to support the Commission: Lindsey Christopher, Dana Esparza and Monica Pack.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Liotta stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDERPresiding Appellate Officer, Chairman Liotta

Call to order 9:00 a.m. by Chairman Liotta, Presiding Appellate Officer.

ROLL CALLPresiding Appellate Officer, Chairman Liotta

After the roll call was taken, Chairman Liotta announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeal Meeting of February 1, 2019 and Special Appeals Meeting Minutes of February 15, 2019, were considered for approval.

Chairman Liotta presented the minutes of the Regular Appeal Meeting of February 1, 2019 and Special Appeals Meeting Minutes of February 15, 2019, Meeting for approval.

Motion: Commissioner Tilly made a motion to approve the minutes of the Regular Appeal Meeting of February 1, 2019 and Special Appeals Meeting Minutes of February 15, 2019 Meeting.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. George Flowers v. Multiple Injury Trust Fund, File #CM2016-07648AMIF

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Tava Jones represented the Claimant. Jon Derouen represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

2. Crescencio Rodriguez v. Trinity Industries Inc. & Ace American Insurance Co. File #CM2016-07223L

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Craig R. Armstrong represented the Claimant and Travis A. Fulkerson represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to take this case under advisement.

Second: Commissioner Tilly

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

3. Kristal Nicholson v. University of Oklahoma, (Own Risk #14839), File #CM2018-01658J

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Darrel Paul represented the Claimant and Joshua Romano represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

4. Robert R. Brooks Jr. v. Multiple Injury Trust Fund, File #CM2016-05426QMIF

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Ray Lahann represented the Claimant and Michael Fagan represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to affirm the Administrative Law Judge's order and instruct Appellate Counsel or other staff member to draft a proposed order with findings of facts and conclusion of law to be considered at a future meeting.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. Shawna L. James v. Braums Ice Cream & Dairy Stores (Own Risk #13610), File #CM2017-02909L

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Eric W. Quandt is the attorney of record for the Claimant. Travis A. Fulkerson is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to affirm the Administrative Law Judge's order and instruct Appellate Counsel or other staff member to draft a proposed order with findings of facts and conclusion of law to be considered at a future meeting.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Tammy G. Kallam v. Emerson Process Management Regulator Technologies & Old Republic Insurance Co., File #CM2017-02159L

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green represented the Claimant and Cyrus Nathaniel Lawyer represented for the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

7. Deidra Kay Mills v. Railcrew Express LLC & Liberty Insurance Corp., File #CM2017-06167J

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Darrel Paul represented the Claimant and Cyrus Nathaniel Lawyer represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8. Brittany N. Smith v. Whataburger Restaurants LLC & Safety National Casualty Corp., File #CM2017-02425Y

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green is the attorney of record for the Claimant and Catherine C. Taylor is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Tilly

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

9. Donald Williams v. Carlisle Foodservice Inc. & New Hampshire Insurance Co., File #CM2017-07135J

Claimant filed an appeal from the order issued by Administrative Law Judge Curtain. William R. Emig represented the Claimant and John A. McCaleb represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Order in the Following Cases:

1. James E. Dunlap v. MITF, File # CM2015-08328XMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan represented the Claimant. Michael Fagan represented the Respondent.

This case came on for Oral Argument on November 30, 2018. After reviewing the record hearing oral argument of counsel, and deliberating, the Commission took to continue this case for consideration at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

2. Billy J. Schmidt v. MITF, File #CM2016-02288JMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan represented the Claimant and Michael Fagan represented the Respondent.

This case came on for Oral Argument on November 30, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement. A proposed order has been distributed to the Commissioners for consideration of adoption.

3. Alicia A. Breuer v. Bounce Back Rehab PLC, & State Farm Fire and Casualty Co., File #CM2017-02739F

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Pam Cornett represented the Claimant. Norman Lemonik represented the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instruct Commission Counsel or other staff member to draft a proposed order to be considered at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

4. Bovas George v. Synergies 3 Tec Services LLC, and North American Specialty Insurance Co. File #CM2017-05267Q

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Esther M. Sanders represented the Claimant and Robert Paczkowski represented the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement. A proposed order has been distributed to the Commissioners for consideration of adoption.

Motion: Commissioner Tilly moved to adopt the proposed order.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

5. Dustin Wilson V. Dirt Wurx LLC, CompSource Mutual Ins. Co. (FKA CompSource Oklahoma), File #CM2018-00497R

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Robert A. Flynn is the attorney of record for the Claimant and Blake I. Whitten is the attorney of record for the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instruct Commission Counsel or other staff member to draft a proposed order to be considered at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

6. Roger Bastien v. Mathis Brothers Furniture Co. Inc., (Own Risk #19602), File #CM2018-00536A

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Arthur H. Adams represented the Claimant. Kelly Bodell represented the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to affirm the Administrative Law Judges Order and instruct Appellate Counsel or another staff member to draft a proposed order with findings of fact and conclusions of law for consideration at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption. A proposed order has been distributed to the Commissioners for consideration of adoption.

Motion: Commissioner Russell moved to continue the remaining proposed orders.

Second: Commissioner Tilly

Those Voting Aye: Chairman Liotta and Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: REMAINING ORDERS CONTINUED

D. Announcements

Commission's next special business meeting is Thursday, March 14, 2019.
Commission's next regular meeting regarding Appeals is scheduled for
Friday, March 22, 2019.

ADJOURNMENT

Motion: Commissioner Tilly moved to adjourn the meeting at approximately 3:23
p.m.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta and Commissioner Russell and
Commissioner Tilly.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.